

19KK

BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

FILED

2005 JAN 24 P 2:39

PUBLIC UTILITIES  
COMMISSION

In the Matter of )  
 )  
 PUBLIC UTILITIES COMMISSION ) Docket No.05-0002  
 )  
 Instituting a Proceeding to Investigate the )  
 Issues and Requirements Raised by, and )  
 Contained in, Hawaii Revised Statutes )  
 486H, as Amended )  
 )

374825v. 2

SHELL OIL COMPANY'S MOTION TO INTERVENE

AND

CERTIFICATE OF SERVICE

CLIFFORD K. HIGA 2950-0  
BRUCE NAKAMURA 6518-0  
First Hawaiian Center  
999 Bishop Street, Suite 2600  
Honolulu, HI 96813  
Telephone No.: 539-8700  
Facsimile No.: 539-8799  
Attorneys for  
SHELL OIL COMPANY

BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of	)	
	)	
PUBLIC UTILITIES COMMISSION	)	Docket No.05-0002
	)	
Instituting a Proceeding to Investigate the	)	
Issues and Requirements Raised by, and	)	
Contained in, Hawaii Revised Statutes	)	
486H, as Amended	)	
_____	)	

SHELL OIL COMPANY'S MOTION TO INTERVENE

Shell Oil Company ("Shell"), by and through its attorneys' Kobayashi, Sugita & Goda, hereby moves the Public Utilities Commission of the State of Hawaii (hereinafter the "Commission"), pursuant to HAR §§ 6-61-41 and 6-61-55, and Commission Order No. 21515 issued in this docket, for permission to intervene in this proceeding.

Shell files this Motion in a timely fashion in accordance with Order No. 21515, and does not request a hearing for this Motion. As demonstrated below, Shell satisfies all the statutory prerequisites for intervention outlined in HAR § 6-61-55. In support of its Motion, Shell states:

1.     Correspondence and Communications.

Correspondence and communications regarding this proceeding should be addressed to:

Danny Batchelor  
Senior Counsel  
Shell Oil Company  
P.O. Box 2463  
Houston, TX 77252-2463

and also to

Clifford K. Higa, Esq.  
Bruce Nakamura, Esq.  
Kobayashi, Sugita & Goda  
First Hawaiian Center  
999 Bishop Street, Suite 2600  
Honolulu, Hawaii 96813

2. Shell's Right to Participate in the Proceeding

Shell is an affiliate of the Royal Dutch/Shell Group of Companies, which operates in over 135 countries and employs more than 110,000 people. Approximately 24,000 Shell employees are based in the United States. The company is one of America's leading oil and gas producers, natural gas marketers, gasoline marketers and petrochemical manufacturers.

Within the state of Hawaii, Shell is one of five principal non-refining marketers of gasoline. Shell maintains a major wholesale and retail presence on the islands of Oahu, Maui, Kauai, and the Big Island of Hawaii, through its multiple interests in stations and terminals throughout the state.

By virtue of its status as a principal non-refiner marketer of gasoline within the state of Hawaii, the issues and requirements raised by, and contained in, Hawaii Revised Statutes ("HRS") Chapter 486H have direct application to Shell's operations. Specifically, the 2004 amendments to HRS Chapter 486H set forth in Act 242: (1) changing the baseline for determining maximum pre-tax wholesale gasoline prices; (2) extending maximum pre-tax wholesale price limits to mid-grade and premium gasoline; (3) repealing the maximum pre-tax retail gasoline price; (4) establishing zones within the State and authorizing the Commission to adjust the maximum pre-tax wholesale gasoline prices in said zones; and (5) extending the effective date for the imposition of the maximum pre-tax wholesale gasoline price limit (hereinafter collectively referred to as the "Act 242 Amendments"), all have a direct effect and

impact on Shell's operations within the State of Hawaii.

This impact to Shell is underscored by the Commission's statement that "[s]ubsequent to the issuance of this order and consistent with the authorities provided in Act 242, the commission immediately anticipates issuing requests for documents, data, and information to manufacturers, wholesalers and jobbers that it believes are necessary and appropriate for purposes of this investigation." *See* Order No.21525 at pp. 4 – 5. Given its status within the state, Shell believes that it will likely be the subject of the Commission's discovery in this matter, and therefore formal participation as a party to this docket is reasonable and appropriate.

Accordingly, Shell believes that it is an interested party therefore maintains a sufficient basis to participate in these proceedings. Moreover to the extent that the implementation of HRS Chapter 486H and the Act 242 Amendments directly affect Shell's property interests and right to market its products in interstate commerce, then Shell has a right to participate as a matter of fundamental due process.

3. The Nature and Extent of Shell's Property, Financial, and Other Interest in the Pending matter.

As noted above, Shell is one of five principal non-refining marketers of gasoline within the state, maintaining a major wholesale and retail presence on each major island via its multiple interests in stations and terminals. Given the above, any examination as to the effect, impact, and appropriateness of any or all of the Act 242 Amendments has a significant and direct effect on Shell's operations within the state of Hawaii. As such, there are substantial financial, operational, and property interests of Shell, that are directly implicated by way of this docket.

4. The Effect of the Pending Order as to Shell's Interests

See Nos. 2 and 3 above.

5. The Other Means Available Whereby Shell's Interest may be Protected.

To date, the Commission has only found it "necessary" to make Chevron U.S.A. Inc. ("Chevron"), Tesoro Hawaii Corporation ("Tesoro"), and the Consumer Advocate parties to this proceeding. See Order No. 21525 at p. 4.

To the extent that Chevron and Tesoro are manufacturers of petroleum products and Shell is not, their interests in this docket are distinguishable from Shell's interests. Likewise, the Consumer Advocate cannot adequately represent Shell's significant interest in this docket. Finally, while it is anticipated that other non-refiner marketers will seek to intervene in this docket, given the unique makeup of each non-refiner marketer and their particularized concerns relative to the impact of the Act 242 Amendments on their operations, it is apparent that there are no other means available whereby Shell's significant interests in this docket will be adequately protected.

6. The Extent to Which Shell's Interest will not be Represented by Existing Parties.

Given the above, Shell does not believe that its interests will be adequately represented by the existing parties to this proceeding. Thus, Shell respectfully submits that it is proper that it be allowed to intervene.

7. The Extent to Which Shell's Participation can Assist in the Development of a Sound Record.

This docket seeks to investigate and examine the effect, impact and appropriateness of the Act 242 Amendments. As Shell stands as a principal non-refiner marketer within the state of Hawaii, Shell's participation in this docket is necessary to ensure that the record in this docket

fairly represents the interests of all relevant parties that will be impacted by the Act 242 Amendments, and HRS Chapter 486H. As such, Shell's participation in this proceeding will undoubtedly assist in the development of a sound record.

8. The Extent to Which Shell's Participation will Broaden the Issues or Delay the Proceeding

As Shell's participation in this docket is necessary to ensure that a proper record is made in assessing the impacts of the Act 242 Amendments, the benefit that is derived from Shell's participation in these proceeding will greatly outweigh any potential broadening of issues or delay that may occur because of said participation.


9. The Extent to Which Shell's Interest in the Proceeding Differs from that of the General Public

Shell's interests are that of a principal non-refiner manufacturer of petroleum products. Therefore, Shell's interests go beyond the general public's interests as consumers of petroleum products.

10. Statement of Shell's Position

For these reasons, among others, Shell respectfully submits that its allegations set forth herein are reasonably pertinent to and do not unreasonably broaden the issues already presented within this docket. As such, without waiving any of its rights under law or equity, Shell respectfully requests that this Commission grant its Motion to Intervene as a party to this proceeding.

DATED: Honolulu, Hawaii, January 24, 2005.

  
\_\_\_\_\_  
CLIFFORD K. HIGA  
BRUCE NAKAMURA  
Attorneys for SHELL OIL COMPANY

BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of )  
 )  
PUBLIC UTILITIES COMMISSION ) Docket No.05-0002  
 )  
Instituting a Proceeding to Investigate the )  
Issues and Requirements Raised by, and )  
Contained in, Hawaii Revised Statutes )  
486H, as Amended )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

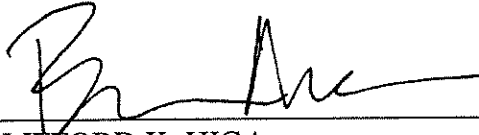
The undersigned hereby certify that on January 24, 2005, a copy of the foregoing document was served upon the following parties, by U.S. mail, postage prepaid, and properly addressed to each such party:

DIVISION OF CONSUMER ADVOCACY  
Department of Commerce and Consumer Affairs  
335 Merchant Street, 3<sup>rd</sup> Floor  
Honolulu, HI 96813  
**[two (2) filed-mark copies) (Hand-delivery)]**

TESORO HAWAII CORPORATION  
c/o The Corporation Company, Inc.  
1000 Bishop Street  
Honolulu, HI 96813

CHEVORN U.S.A. INC.  
c/o PHCS Hawaii, Inc.  
Pauahi Tower, Suite 1600  
1001 Bishop Street  
Honolulu, HI 96813

DATED: Honolulu, Hawaii, January 24, 2005.

  
\_\_\_\_\_  
CLIFFORD K. HIGA  
BRUCE NAKAMURA  
Attorneys for SHELL OIL COMPANY